



SF 395 – Stalking (LSB2561SV)

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Fiscal Note Version – New

Requested by Senator Steve Sodders

Description

Senate File 395 expands the definition of “course of conduct” as it relates to stalking in Iowa Code section **708.11** to include situations where a technological device is repeatedly used to locate, listen to, or watch a person without a legitimate purpose. The Bill broadens the elements of stalking to include when a victim feels terrorized, frightened, intimidated, or threatened, as well as fears bodily injury or death.

Background

Correctional and Fiscal Information

- Current law provides for a graduated system of penalties for stalking ranging from an aggravated misdemeanor to a Class C felony. Class C felony convictions are rare. Penalties are enhanced for repeat convictions.
- There were 107 charges disposed in FY 2014 for various levels of stalking. Of these, 50 charges were either dismissed or acquitted while 51 charges resulted in a conviction. There were 25 charges that resulted in convictions as charged at the original level of stalking. The overall conviction rate for any type of stalking is 47.7%.
- There were 30 offenders convicted of the aggravated misdemeanor stalking while 15 offenders were convicted of the Class D felony stalking under Iowa Code section **708.11**.
- The estimated marginal cost per day for state prison is \$18.92. The prison population was 8,183 offenders on March 5, 2015. Capacity is currently 7,276 beds, so the prisons are operating at 112.5% of capacity.
- The average cost per day for probation or parole is \$4.26. There were 29,555 offenders supervised in Community-Based Corrections (CBC) Field Services on March 5, 2015.
- The estimated marginal cost per day for CBC residential facilities is \$11.55; 81.2% of that amount is paid from local sources. The current statewide CBC residential facility capacity is 1,619 beds. There were 661 offenders waiting for a CBC residential facility bed on March 5, 2015. There were 2,079 offenders supervised by CBC residential facility staff on March 5, 2015.
- The cost per case to the **Indigent Defense Fund** is \$1,200 for either an aggravated misdemeanor or a Class D felony.
- The average cost per case to the **Judicial Branch** is \$213 for an aggravated misdemeanor and \$436 for felonies. These estimates include the average time spent on all cases of the given type regardless of how cases are disposed. Most cases are disposed by plea bargaining; only a small percentage are disposed by bench or jury trials. See the **Fiscal Topic Jury Trials** published by the Legislative Services Agency (LSA) in August 2013 for background information and statistics.
- According to the Justice Data Warehouse (**JDW**), the Criminal and Juvenile Justice Planning Division (**CJJPD**) of the Department of Human Rights (**DHR**), and the Department of Corrections (**DOC**), the following are estimates for sentencing length of stay by offense class for stalking:

Criminal Justice System Information

Conviction Offense Class	Percent Sentenced to State Prison	Avg Length of Stay in Prison	Avg Length of Stay on Parole	Percent Sentenced to Probation	Avg Length of Stay on Probation	Percent Sentenced to CBC Res. Facility	Avg Length of Stay in CBC Res. Facility	Percent Sentenced to County Jail	Avg Length of Stay in County Jail
Aggravated Misdemeanor	12.8%	8.3 months	6.0 months	41.8%	18.8 months	3.7%	5.8 months	33.0%	45 days
Class D Felony	53.6%	17.0 months	13.7 months	44.0%	31.4 months	5.5%	5.8 months	0.0%	0

- Approximately 8.7% of the offenders convicted of an aggravated misdemeanor received a penalty other than correctional supervision, such as community service or a financial penalty, or both.
- The sentencing distribution for offenders convicted of the Class D felony is 103.1% because certain offenders are sentenced to county jail or a CBC residential facility and then probation supervision.

Minority Data Information

The table below shows FY 2014 offender-based convictions for the various stalking offenses in Iowa Code section [708.11](#). Blacks are disproportionately convicted of stalking, compared to their percentage of the Iowa population.

Racial Characteristics of Offenders Convicted of Stalking in FY 2014

Stalking Offense	White	Black	Hispanic	Other/ Unknown	Total
Violation of a Protective Order	8	1	0	0	9
Dangerous Weapon	2	0	0	0	2
Second Offense	1	1	0	0	2
First offense	23	3	2	2	30
Total	34	5	2	2	43
Percent of total	79.1%	11.6%	4.7%	4.7%	100.0%

Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2015, for information related to minorities in the criminal justice system.

Assumptions

Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice policies and practices will not change over the projection period.
- The law will become effective July 1, 2015. A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Some criminal cases that do not meet the definition of stalking under current law will be stalking under the provisions of [SF 395](#). Approximately 50.0% of dismissed cases under current law will become stalking convictions under the provisions of this Bill. There will be no Class C felony convictions under this Bill. Cost estimates are based on convictions for Class D felonies and aggravated misdemeanors.
- Pursuant to Iowa Code section [692A.126](#), if the stalking is found to be sexually motivated, the offender is subject to the requirements of the [Sex Offender Registry](#) administered by the [Department of Public Safety](#). The number of offenders convicted under this Bill that

may be found to have a sexual component to their crime cannot be determined but is expected to be minimal.

- Marginal costs for county jail cannot be determined due to a lack of data. For purposes of this analysis, the marginal cost for county jail is assumed to be \$15.00 per day.
- Approximately 50.0% of the defendants will be indigent.

Minority Data Information: The impact on minorities will be consistent with current data.

Summary of Impacts

Correctional Impact

There will be an estimated 48 defendants annually charged with stalking under this Bill. Of these, 23 will be convicted. On an annual basis, there will be 12 new Class D felons and 11 new aggravated misdemeanants. It is expected the offenders will be sentenced as follows: eight to state prison, four to county jail, one to a CBC residential facility, and 10 to probation.

The correctional impact on county jails, CBC residential facilities, and state prisons is minimal. The impact on the probation population is expected to be minimal, trending slightly upward over the five-year projection period because the length of stay under supervision is more than one year. The impact on the prison population is minimal. The prison population will increase by four offenders in FY 2016, eight offenders in FY 2017, and 12 offenders annually thereafter.

Minority Impact

To the extent this Bill results in additional criminal convictions, there will be a disproportionate impact on minorities, especially Blacks. Blacks comprise approximately 3.3% of the lowa population but represent 11.6% of the total number of stalking convictions in FY 2014. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system.

Fiscal Impact

The fiscal impact of [SF 395](#) is estimated to be an increased cost of \$41,300 in FY 2016 and \$146,100 in FY 2017. The table below shows the impact by funding source. County jail costs are expected to level off in FY 2017 at approximately \$3,000 annually. State General Fund costs for the corrections system are expected to level off in FY 2018, with State prison system costs reaching \$83,000 annually and CBC probation and parole costs at \$35,300 annually.

Estimated Fiscal Impact by Funding Source

	FY 2016				FY 2017			
	State General			Total	State General			Total
	County Budgets	Fund	Local Funds		County Budgets	Fund	Local Funds	
Judicial Branch	\$ 0	\$ 8,000	\$ 0	\$ 8,000	\$ 0	\$ 16,000	\$ 0	\$ 16,000
Indigent Defense	0	14,000	0	14,000	0	29,000	0	29,000
Jail	1,400	0	0	1,400	3,000	0	0	3,000
State Prison	0	14,000	0	14,000	0	71,000	0	71,000
CBC	0	3,900	0	3,900	0	25,400	1,700	27,100
Total	\$ 1,400	\$ 39,900	\$ 0	\$ 41,300	\$ 3,000	\$ 141,400	\$ 1,700	\$ 146,100

The local funds are generated by offenders paying CBC residential facility rent.

To the extent that technology advances may occur in the future and be used for stalking purposes, the future fiscal impact of this Bill may be underestimated.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Office of the State Public Defender
Office of the State Court Administrator

/s/ Holly M. Lyons

March 11, 2015

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
